

## **REMARKS**

In response to the above-identified Office Action (“Action”), Applicants traverse the Examiner’s rejection to the claims and seek reconsideration thereof. Claims 1-20 are pending in the present application. Claims 1-8 are rejected and claims 9-20 are allowed. In this response, claims 1 and 7 are amended, claim 2 is cancelled and no claims are added.

### **I. Claim Amendments**

In the instant response, claims 1 and 7 are amended and claim 2 is cancelled. In particular, claims 1 and 7 are amended to incorporate the limitations of now cancelled claim 2. Accordingly, the amendments are supported by the specification and do not add new matter.

In view of the foregoing, Applicants respectfully requests consideration and entry of the amendments to claims 1 and 7.

### **II. Claim Rejections – 35 U.S.C. §103**

A. In the outstanding Action, claims 1, 2 and 4-6 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2002/0161462 issued to Fay et al. (“Fay”) and U.S. Patent No. 6,826,282 B1 issued to Pachet et al. (“Pachet”). Applicants respectfully traverse the rejection.

To establish a *prima facie* case of obviousness, the Examiner must show the cited references, combined, teach or suggest the claimed combination of elements or identify an apparent reason to combine prior art elements in the manner claimed.

Claim 2 is cancelled therefore the rejection of claim 2 on this basis is moot.

In regard to independent claim 1, Applicants respectfully submit the combination of Fay and Pachet fails to disclose at least the element of “wherein the sound sources selected by the user are processed into object sounds and other sounds not selected by the user are processed into background sounds” as recited in claim 1.

Fay generally discloses an audio processing and scripting system. See Fay, Abstract. Pachet discloses a music spatialization system. See Pachet, Abstract. As admitted by the Examiner, Fay and Pachet fail to expressly disclose that sound sources selected by the user are processed into object sounds and other sounds not selected by the user are processed into background sounds. See Action, page 4. Instead, the Examiner alleges Pachet teaches unmoved sounds and listener denoted background sounds therefore this element is inherent within the prior art. See Action, page 4. In order to support a finding of inherency, the Examiner must show that the inherent feature is *necessarily* present within the prior art reference. Applicants respectfully submit the Examiner has not made such a showing. The portion of Pachet relied upon by the Examiner describes a constraint solver for calculating the position of elements (e.g. listener or sounds sources) so that predetermined constraints remain satisfied. See Pachet, col. 4, lines 35-40. Although Pachet discloses that some of the positioned elements have been selected by the user while others have not, this does not necessarily teach that the elements are processed into object sounds and background sounds as claimed. In particular, in as much as all of the selected and unselected sound sources may be equally represented in the new arrangement, they are not processed into object sounds and background sounds as claimed. Thus, for at least the foregoing reasons, claim 1 is not *prima facie* obvious in view of Fay and Pachet. Applicants respectfully request reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. §103 over Fay and Pachet.

In regard to dependent claims 4 and 6, claims 4 and 6 depend from claim 1 and incorporate the limitations thereof. Thus, for at least the reasons that claim 1 is not *prima facie* obvious over Fay and Pachet, claims 4 and 6 are further not obvious over the cited art. Applicants respectfully request reconsideration and withdrawal of the rejection of claims 4 and 6 under 35 U.S.C. §103 over Fay and Pachet.

**B.** In the outstanding Action, claim 3 is rejected under 35 U.S.C. §103(a) as being unpatentable over Fay and Pachet and further in view of U.S. Publication No. 2005/0080616 issued to Leung et al. ("Leung") and U.S. Publication No. 2003/0053680 issued to Lin et al. ("Lin"). Applicants respectfully traverse the rejection.

Claim 3 depends from claim 1 and incorporates the limitations thereof. For at least the reasons previously discussed, Fay and Pachet fail to disclose at least the element of “wherein the sound sources selected by the user are processed into object sounds and other sounds not selected by the user are processed into background sounds” as further found in claim 3. The Examiner has not pointed to, and Applicants are unable to discern, a portion of Lin curing the deficiencies of Fay and Pachet with respect to this element. Thus, for at least the foregoing reasons claim 3 is not *prima facie* obvious over Fay and Pachet. Applicants respectfully request reconsideration and withdrawal of the rejection of claim 3 under 35 U.S.C. §103 over Fay, Pachet and Lin.

### **III. Claim Rejections – 35 U.S.C. §102**

In the outstanding Action, claims 7 and 8 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,459,797 B1 issued to Ashour et al. (“Ashour”). Applicants respectfully traverse the rejections as follows.

In regard to independent claim 7, Applicants respectfully submit that Ashour fails to disclose at least the element of “wherein the sound sources selected by the user are processed into object sounds and other sounds not selected by the user are processed into background sounds” as recited in claim 7. The Examiner has not pointed to, and Applicants are unable to discern, a portion of Ashour teaching this element. As previously discussed, this element was previously recited in now cancelled claim 2 which was not rejected in view of Ashour. The Examiner’s failure to rely upon Ashour in rejecting claim 2 evidences the Examiner’s recognition that Ashour fails to disclose this element. Since Ashour fails to teach each and every element of claim 7, claim 7 is not anticipated by Ashour. Applicants respectfully request reconsideration and withdrawal of the rejection of claim 7 under 35 U.S.C. §102 over Ashour.

In regard to dependent claim 8, claim 8 depends from claim 1 and incorporates the limitations thereof. Thus, for at least the reasons that claim 7 is not anticipated by Ashour, claim 8 is further not anticipated by the cited art. Applicants respectfully request reconsideration and withdrawal of the rejection of claim 8 under 35 U.S.C. §102 over Ashour.

**IV. Allowable Subject Matter**

Applicants acknowledge and appreciate the Examiner's allowance of claims 9-20.

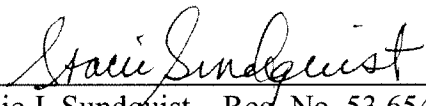
**CONCLUSION**

In view of the foregoing, it is believed that all claims now pending, namely claims 1-20, are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

Respectfully submitted,

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**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being submitted electronically via EFS Web to the United States Patent and Trademark Office on October 18, 2007.

  
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